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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,617	12/23/2004	Brian Essex La Trobe	04634/0202284-US0	9275
7278	7590	03/15/2006		
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			EXAMINER HUYNH, KHOA D	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/519,617

Applicant(s)

LA TROBE, BRIAN ESSEX

Examiner

Khoa D. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 does not recite structural limitations defining the claimed subject matter but only refer to the drawings. Since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired, such claim is, therefore, indefinite.

3. Claim 10 recites the limitation "the components". There is insufficient antecedent basis for this limitation in the claim. Furthermore, it is unclear and ambiguous what structural limitations applicant refers to when claim 10 calls for "the components as defined in claim 1".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 and 9-11, as presently understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Hachima (5276924).

Regarding claim 1, the Hachima reference discloses an aerobic digestion toilet (Fig. 8). The toilet includes a chamber (constituted by the lower portion of element 109 and space formed by elements 111 & 119), a toilet bowl (constituted by the upper portion of element 109) above the chamber having an outlet vent (125) and means for generating convection flow (about 124) through the chamber from adjacent the floor thereof through the outlet vent from the chamber. The toilet also includes a conveyor (112) located below the toilet bowl and configured to receive material falling from the toilet bowl and move it upwardly at an incline to discharge onto a downwardly inclined tray (115, 118).

Regarding claim 2, as schematically shown in Figure 8, the tray (115, 118) is inclined at different angles along its length being at a steeper angle (portion 115 is being at a steeper angle) adjacent the conveyor (112) than the remainder of the tray (portion 118) remote from the conveyor.

Regarding claim 3, as schematically shown in Figure 8, the tray end remote from the conveyor (112) feeds into a solids receptacle (117) which is removably located in the chamber.

Regarding claim 4, the conveyor (112) is a belt conveyor.

Regarding claim 9, the Hachima reference also discloses a closure plate (110) and a toilet seat (102). The toilet, even though not shown, is inherently included a linkage mechanism which provides the connection from the closure plate (110) to the toilet seat (102) so that when the closure plate (15) is moved to

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an open position when the toilet seat (22) is depressed or closed (col. 7, lines 20-30).

Regarding claim 10, the Hachima reference discloses an aerobic digestion toilet (Fig. 8). The toilet includes a conveyor (112) and drive assembly (constituted by the associated components that drive the conveyor), a discharge tray (115, 118), and a mounting frame (constituted by the support structures for the conveyor and its drive assembly).

Claim 11 is also rejected assuming it recites limitations that are similar to claim 1 which has been rejected as discussed supra.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 4 and 5, as presently understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Colombot (6601243).

Regarding claim 1, the Colombot reference discloses an aerobic digestion toilet (Fig. 1). The toilet includes a chamber (28, 29), a toilet bowl (Fig. 1) above the chamber having an outlet vent (24) and means for generating convection flow (about 23) through the chamber from adjacent the floor thereof through the outlet vent from the chamber. The toilet also includes a conveyor (Fig. 2) is located below the toilet bowl and configured to receive material falling from the toilet bowl and move it upwardly at an incline to discharge onto a downwardly inclined tray (Fig. 4).

Regarding claims 4 and 5, the Colombot reference also discloses that the conveyor (Figs. 2 & 3) is a belt conveyor, and the belt is a sprocket belt (32) having side (14) and lower end plates (10 or 16).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hachima (as discussed supra).

The Hachima reference also discloses that the conveyor (112) is provided with a mechanical drive (121). The Hachima reference DIFFERS in that it does not specifically disclose that the mechanical drive is a stepwise mechanical drive as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Hachima reference by employing a stepwise mechanical drive for the conveyor. Such modification would be considered a mere substitution of one functionally equivalent mechanical drive for another within the aerobic digestion toilet art that would work equally well on the Hachima device.

9. Claims 6-8, as presently understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Colombot (as discussed supra).

Regarding claim 6, the Colombot reference also discloses that the conveyor (112) is moved with any suitable transmission well known in the art (col. 3, lines 58-60). The Colombot reference DIFFERS in that it does not specifically include a stepwise mechanical drive as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Colombot reference by employing a stepwise (or ratchet) mechanical drive for the conveyor. Such modification would be considered a mere choice of a preferred mechanical drive for a conveyor on the basis of its suitability for the intended use.

Regarding claims 7 and 8, the drive also includes a lever (constitute by the rod-like portion of element 13) which operates the stepwise (or ratchet) mechanical drive driving the sprocket engaging an conveyor belt roller (33), wherein the lever is linked, via the user, to the tiltable toilet bowl cover (2). The lever also connects to a handle (abut 13).

Conclusion

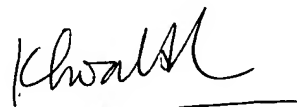
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh
Primary Examiner
Art Unit 3751

HK
03/09/2006